


Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners

Date: August 26, 2010

Thru: La Donna Castañuela, Chief Clerk

From:  Ramiro Garcia, Jr., Director, Border and South Central Texas Area

Subject: Agenda Executive Summary for Approval of Fiscal Year (FY) 2011 Proposed Assessment for Annual Costs for Watermaster Operations in the Concho River Watermaster Program Set for September 15, 2010 Uncontested Agenda; Docket No. 2010-1084-BGT

Summary of Request:

The Concho River Watermaster Program seeks approval of its Fiscal Year (FY) 2011 proposed assessment for annual costs of operations based on its operating budget which consists of a \$50.00 base fee applicable to each assessment account. A penalty of 5.0% of any delinquent fee due shall be imposed on a person who fails to pay the required fee when due and if the person fails to pay the fee within 30 days after the day the fee is due, an additional 5.0% penalty shall be imposed. Delinquent fees will accrue interest beginning on the 61st day after the due date. The yearly interest rate on all delinquent fees required under this title is the prime rate plus one percent, as published in the *Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or a legal holiday. Penalties and/or interest fees may be waived by the Executive Director for good cause. The Executive Director estimates the proposed assessment of One Hundred Fifty Nine Thousand Fifty Dollars (\$159,050) will generate revenue of One Hundred Fifty Eight Thousand Five Hundred Seventy Two Dollars (\$158,572) for FY'11.

Authority: TWC § 11.329
TAC § 12.1; 12.3; 12.5

Staff Recommendation:

Approval of the Concho River Watermaster Program FY'11 Assessment for Annual Cost of Operations

Contact: Ramiro Garcia, Jr., (512) 239-4481

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST**

AGENDA REQUESTED: September 15, 2010

DATE OF REQUEST: July 12, 2010

NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Ramiro Garcia, Jr., 239-4481, Amy Settemeyer, 239-2588

CONSIDERATION OF FISCAL YEAR 2011 ASSESSMENT OF ANNUAL COSTS FOR WATERMASTER OPERATIONS IN THE CONCHO RIVER WATERMASTER PROGRAM. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 304.61 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2010, and ending August 31, 2011, for appropriators in the Concho River Watermaster Program, which consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County and approve \$159,050.00 as the amount to be assessed for annual costs.

Chief Clerk Must Send Notice of the Application/Hearing: No

Type of Matter: Budget

County: The 8 Counties Within the Concho Watermaster's Jurisdiction (Irion, Runnels, Sterling, Coke, Reagan, Tom Green, Schleicher, Concho)

Docket Number: 2010-1084-BGT

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER Assessing the Annual Cost of Operation for the Concho River Watermaster Program for the fiscal year beginning September 1, 2010, and ending August 31, 2011: Docket No. 2010-1084-BGT Concho River Watermaster

On September 15, 2010, after proper notice and public hearing as provided in Texas Water Code §11.329, came to be considered by the Texas Commission on Environmental Quality ("Commission") the matter of cost for the Watermaster operations in the said Program for the fiscal year beginning September 1, 2010, and ending August 31, 2011. After reviewing the supporting documentation, the Commission finds as follows:

- (1) The Concho River Watermaster Program, as designated pursuant to House Bill 2815 (Chapter 11, Subchapter K of the Texas Water Code) passed in the Regular Session, 79th Legislature, 2005, consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County;
- (2) Pursuant to Texas Water Code §11.329, the holders of water rights which are to be administered by the Watermaster may be assessed the compensation and necessary expenses of a Watermaster, assistant Watermasters and other necessary employees;
- (3) 30 Texas Administrative Code (TAC), §§304.61-304.63 set forth procedures for the assessment of costs of the Watermaster operations in the Concho River Watermaster Program;
- (4) The compensation and necessary expenses of a Watermaster and other necessary employees for the fiscal year beginning September 1, 2010, and ending August 31, 2011, will require the amount to be assessed in the sum of ONE HUNDRED FIFTY NINE THOUSAND FIFTY AND NO/100 DOLLARS (\$159,050.00).
- (5) The charges, fees, formulas for assessment rates, and method for assessing and levying costs approved below constitute an equitable apportionment of costs, as required by Texas Water Code §11.558 and §11.329;
- (6) All requirements of Texas Water Code §11.558, §11.329, and 30 TAC §§304.61-304.63 have been met.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

- (1) That the amount of ONE HUNDRED FIFTY NINE THOUSAND FIFTY AND NO/100 DOLLARS (\$159,050.00) is approved as the total amount to be assessed for annual costs of operations in the Concho River Watermaster Program during the fiscal year beginning September 1, 2010, and ending August 31, 2011, and that such amount is assessed against the water rights holders in the Concho River Watermaster Program in the manner described in this order and pursuant to 30 TAC §§304.61-304.63;
- (2) That the following charges, rates, fees, formulas for assessment rates and method for assessing and levying cost are approved and shall be implemented by the Executive Director:
 - (a) A base charge for each assessment account of FIFTY AND NO/100 DOLLARS (\$50.00);
 - (b) Assessment rates for each assessment account to be calculated by the Executive Director in accordance with the procedures set forth in 30 TAC §304.63;
 - (c) Assessment of costs and levy of assessments for each account in accordance with the procedures set forth in 30 TAC §304.63;
 - (d) A penalty of 5.0% of the fee due shall be imposed when the assessment is not paid on time. If the assessment is not paid within 30 days after the day on which the fee is due, an additional 5.0% penalty shall be imposed pursuant to 30 TAC Chapter 12;
 - (e) Delinquent fees accrue interest beginning on the 61st day after their due date;
 - (f) Penalties and/or interest under this section may be waived by the Executive Director for good cause; and
- (3) That the Executive Director shall specify dates by which payments assessed pursuant to this order shall be paid or postmarked.

ISSUED THIS DATE: _____


TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY


For the Commission

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners, TCEQ **Date:** August 26, 2010

Thru:  John Sadlier, Deputy Director
Office of Compliance and Enforcement

From:  Ramiro Garcia, Jr., Director
Border and South Central Texas Area

Subject: Fiscal Year (FY) 2011 Proposed Assessment of Annual Costs of Operations for the Concho River Watermaster Program

The Concho River Watermaster fund is required by Texas Water Code (Code) §11.329 to pay compensation and expenses of the Watermaster and to pay expenditures for equipment, facilities, and capital expenditures necessary for Watermaster operations when recommended by the Watermaster Advisory Committee (WAC) and the Executive Director and approved by the Commission.

The attached document, "Concho River Watermaster Operations", was presented to the Concho River WAC on July 22, 2010, in San Angelo, Texas. The third column, "FY'11 Operating Budget Needs" indicates the projected program needs within the FY'11 appropriation. The "FY'10 Anticipated Expenditures" (column 2) shows the projected program expenditures for the current fiscal year. Also, attached to this memo is a copy of the public meeting notice for the July, 2010 Concho River WAC meeting that provided thirty (30) day notice of the budget hearing as required by the Code. An additional public meeting notice was mailed on August 13, 2010 to all affected water right holders regarding this budget item scheduled for the September 15, 2010 commission agenda. A copy of that notice and the mailing affidavit from the Chief Clerk's office are also attached.

During their meeting, the WAC acknowledged the "FY'10 Anticipated Expenditures" in the amount of \$166,732, as presented. The WAC requested staff adjust the "FY'11 Operating Budget Needs" to account for salary savings available for carry forward from FY '10 as a result of the Watermaster position being vacant for several months. Staff confirmed this option with the Budget and Planning Director and made these adjustments. The WAC agreed with staff's adjusted recommendation for the proposed "FY'11 Operating Budget Needs" in the amount of \$158,572. A copy of the WAC meeting agenda is attached for your information.

Staff recommends the "FY'11 Operating Budget Needs" in the amount of \$158,572. Using this budget amount, the program calculates its assessment based on a 99.7% collection rate; therefore, the total assessment amount is \$159,050 with a municipal rate estimated at \$0.5489. This staff proposal represents no change from the previous year's municipal rate of \$0.5489. The calculated rate for FY'11 is expected to generate revenue in excess of the Comptroller's Biennial Revenue Estimate (BRE) when combined with the revenue estimates for the Rio Grande Watermaster Program and the South Texas Watermaster Program. This combined excess revenue collection will provide access to the contingency Watermaster appropriations as authorized in Rider 31 of the FY'10-'11 General Appropriations Act. The total estimated amount of revenue in excess of the BRE for FY'11 is \$140,182. This additional revenue is necessary for the Watermaster programs to be self-sufficient and not rely on funding subsidization from TCEQ.

FY'11 CRWM Budget

August 26, 2010

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This memorandum requests Commission approval of the Concho River Watermaster Program operating budget and assessment for FY'11. If I can be of further assistance or should you have any questions regarding this matter, please contact me at 239-4481 or Amy Settemeyer, Watermaster Liaison, at 239-2588.

Concho River Watermaster Operations

Annual Appropriation Information

	FY09	FY10	FY11
Legislative Appropriation Amount	138,715.00	137,819.89	130,191.93
Anticipated Rider 31 Funding	0.00	0.00	0.00
Estimated Fringe and SWCAP (not in Appropriation)	19,489.00	20,380.00	28,381.00
Estimated Total Fund Obligation	\$158,204.00	\$158,199.89	\$158,572.93

FY10 Budget/Anticipated Expenditures Compared to FY11 Operating Budget Needs

Budget Categories	FY10 Adjusted Budget	FY10 Anticipated Expenditures	FY11 Operating Budget Needs	Difference from FY10 to FY11 Budget
Salaries	107,676.19	107,676.19	99,644.09	(8,032.10)
Longevity	2,477.00	2,477.00	2,600.00	123.00
Salary Enhancements (1)	2,760.00	2,760.00	0.00	(2,760.00)
Fringe (2)	28,866.99	28,866.99	27,753.00	(1,113.99)
SORM (3)	240.00	240.00	240.00	0.00
SWCAP (4)	604.00	604.00	628.00	24.00
LAR Capital (5)	0.00	0.00	0.00	0.00
Professional/Temp Services (6)	0.00	0.00	0.00	0.00
Travel In-State (7)	2,700.00	2,700.00	4,000.00	1,300.00
Travel Out-of-State	0.00	0.00	0.00	0.00
Training	623.00	623.00	500.00	(123.00)
Rent - Building (8)	11,000.00	11,000.00	11,000.00	0.00
Postage	3.00	3.00	1,100.00	1,097.00
Phone/Utilities	2,745.00	2,745.00	2,745.00	0.00
Supplies - Consumables	167.00	167.00	800.00	633.00
Other Operating Expenses (9)	1,697.00	1,697.00	352.84	(1,344.16)
Fuels/Lubricants	3,700.00	3,700.00	4,500.00	800.00
Rent - Machine & Other	0.00	0.00	710.00	710.00
Facilities, Furniture & Equip (10)	1,473.00	1,473.00	2,000.00	527.00
Capital Equipment - Non LAR (11)	0.00	0.00	0.00	0.00
TOTAL	\$166,732.18	\$166,732.18	\$158,572.93	(\$8,159.25)

Notes:

- (1) Salary Enhancements are calculated based on 3.4% of 75% of total Salaries; these are projections only; actual expenditures will vary based on salary actions approved by management
- (2) Fringe includes employee benefits such as health insurance, social security insurance, and retirement
- (3) State Office of Risk Management (SORM) is a fee that is charged annually to the TCEQ; amount is estimated during budget development; actual expenditure may vary
- (4) Statewide Cost Allocation Plan (SWCAP) is a fee that is charged annually to the TCEQ for central services; amount is estimated during budget development; actual expenditure may vary
- (5) Legislative Appropriation Request (LAR) Capital includes all items exceeding \$25,000 in total agency cost (ex: vehicles, computers, monitoring equipment); must have legislative approval
- (6) Professional/Temp Services includes but is not limited to software development costs, summer interns, temporary employees
- (7) Travel In-State is capped at an agency level; an increase in WM travel funding cannot be accommodated without a corresponding decrease in travel funding in another agency program
- (8) A proportionate share of the annual TCEQ Regional Office building rent is charged to the Watermaster Program
- (9) Other Operating Expenses includes items designated by Comptrollers Office that do not fall into any remaining budget category (ex: annual vehicle inspection fees, vehicle decals, etc)
- (10) Facilities, Furniture & Equipment (FFE) includes but is not limited to non-LAR equipment less than \$5,000 in cost, non-consumable supplies, vehicle maintenance and repairs, etc
- (11) Capital Equipment - Non LAR includes capital items with a cost between \$5,000 and \$24,999

FY11 Proposed Assessment Calculation

FY11 Operating Budget Needs	\$158,572.93
Assessment Necessary Based on 99.7% Collection Rate	\$159,050.00


Historical Assessment Comparison

	FY09	FY10	FY11
Total Assessment	\$158,999.00	\$158,994.00	\$159,050.00
Municipal Rate	0.5489	0.5489	0.5489

The seal of the State of Texas, featuring a five-pointed star in the center, surrounded by a wreath of olive and oak branches. The words "THE STATE OF TEXAS" are inscribed around the perimeter of the seal.

COUNTY OF TRAVIS §

Given under my hand and the seal of the Texas Commission on Environmental
Quality, this 13th day of August, 2010.


LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality

(SEAL)

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

NOTICE OF CONSIDERATION OF PROPOSED ASSESSMENT OF ANNUAL COSTS FOR THE CONCHO RIVER WATERMASTER PROGRAM

The Commissioners of the Texas Commission on Environmental Quality will consider the Concho River Watermaster Operation's budget and proposed assessment for costs for September 1, 2010 through August 31, 2011 (TCEQ Fiscal Year 2011), during a public meeting at:

**9:30 A.M. in Building E, Room 201S
located at 12100 Park 35 Circle
in Austin, Texas on
September 15, 2010**

This item is Docket No. 2010-1084-BGT, Consideration of an Order assessing costs of Watermaster operations in the Concho River Watermaster Program which consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the mainstem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County.

The compensation and necessary expenses of the Concho River Watermaster Operations for the fiscal year is One Hundred Fifty Eight Thousand Five Hundred Seventy Two Dollars (**\$158,572.00**). Of this amount, One Hundred Twenty Nine Thousand Nine Hundred Ninety Seven Dollars (**\$129,997.00**) are needed for program staff base salaries and benefits (including longevity and fringe) and the remaining Twenty Eight Thousand Five Hundred Seventy Five Dollars (**\$28,575.00**) are needed for program operating costs. Based on a 99.7% collection rate, these necessary expenses require a total assessment of One Hundred Fifty Nine Thousand Fifty Dollars (**\$159,050.00**) with a municipal rate of **\$0.5489**.

This notice is provided to all holders of water rights as required by the Texas Water Code Section 11.329. You may attend this meeting and provide comments to the Commission concerning this item. Persons with disabilities who have special communication or other accommodation needs who are planning to attend this meeting should contact the Office of Administrative Services Facilities Liaison at (512) 239-0080. Requests should be made as far in advance as possible.

The Concho River Watermaster Advisory Committee (WAC) discussed and approved the proposed assessment and budget during a public meeting in San Angelo, Texas, on July 22, 2010. The public was invited to attend this WAC meeting via notice dated June 18, 2010.

If you have any questions or would like a copy of the proposed budget, please contact the Concho River Watermaster's office at (325) 481-8069 or (866) 314-4894, via fax at (325) 658-5431, or e-mail at momohler@tceq.state.tx.us.

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 9, 2010

To Concho River Watermaster Advisory Committee Members:

This notice is being resent in order to correct the time line for budget approval.

In order to comply with Texas Water Code §11.557, attached for your information is a preliminary Concho River Watermaster Program Proposed Budget for Fiscal Year 2011 (FY11). A detailed proposed budget will be presented to the committee on Thursday, July 22, 2010. All water right holders will be notified of the Watermaster Advisory Committee meeting and public comments will be allowed.

Time line for Budget Approval

Month	Action	Status
June, 2010	Submit preliminary budget to WAC for 15 day comment period.	Completed via this notice
June, 2010	Set date for WAC public meeting on the budget in July and send out notices to each water right holder at least 30 days prior to the public hearing.	Meeting set for July 22, 2010 @ 1:30 p.m. Public notices to be sent by 6/18/10
July 22, 2010 at 1:30 p.m.	WAC public hearing on the proposed budget.	Pending
2 weeks after WAC meeting	Submit detailed budget to TCEQ for management review and Commission consideration.	Pending
August, <u>2010</u>	Send out notices to each water right holder at least 30 days prior to Commission agenda	Pending
September, <u>2010</u>	Commission action on order establishing annual assessment rate.	Pending
Sept. – Oct., <u>2010</u>	Send out assessment invoices to water right holders.	Pending

Preliminary calculations indicate that the total amount to be assessed will be \$172,600.00 in FY11. The increase is the result of salary increases, as well as increases in vehicle maintenance, fuel costs, and travel costs. For the most part, the Concho River Watermaster Program has minimized anticipated expenditures for FY11 in an effort to keep assessment rates as low as possible. Please note that the proposed assessment provides funding needed to support the Watermaster Program without additional TCEQ subsidy.

If you have any questions or comments, please do not hesitate to call me at (512) 239-4481.

Sincerely,

A handwritten signature in black ink, appearing to read "Ramiro Garcia, Jr.".

Ramiro Garcia, Jr.
Area Director, Border and South Central Texas

PUBLIC MEETING NOTICE

CONCHO RIVER WATERMASTER ADVISORY COMMITTEE

DATE: Thursday, July 22, 2010

LOCATION: Texas Commission on Environmental Quality
San Angelo Regional Office
622 South Oakes, Suite K

TIME: 1:30 P.M.

**PURPOSE: DISCUSS THE CONCHO RIVER WATERMASTER PROGRAM
PROPOSED BUDGET FOR FISCAL YEAR 2011. PUBLIC IS
INVITED TO ATTEND, COMMENT AND PARTICIPATE.**

Note: Pursuant to Texas Water Code §11.329(b) the Concho River Watermaster is required to provide notice to water right holders, at least 30 days prior to holding a public hearing to discuss the proposed budget for the Concho River Watermaster operations. The Concho Watermaster Advisory Committee will hold a public meeting to discuss the proposed Concho Watermaster budget for fiscal year 2011 on July 22, 2010 at 1:30 p.m., said meeting to be held at the TCEQ San Angelo Regional Office.

Notice Date: June 18, 2010

Ramiro Garcia, Jr.
Area Director, Border and South Central Texas

For questions or for a copy of the Concho River Watermaster budget for fiscal year 2011, please feel free to call (325) 481-8069 or (866) 314-4894.

Special Notice

The Concho River Watermaster Advisory Committee, established in accordance with Texas Water Code §11.557, serves the following purpose:

- (1) provides recommendation to the watermaster and watermaster deputy regarding activities of benefit to the holders of water rights in the administration and distribution of water;
- (2) advises the watermaster and deputy watermaster on complaints and enforcement matters;
- (3) reviews, holding a public hearing on, and makes recommendations on the annual budget proposed by the watermaster so as to cover all costs of the Concho River Watermaster Program; and
- (4) provides assistance as requested by the watermaster, deputy watermaster, or water right holders.

The TCEQ appreciates and values input provided by the Concho River Watermaster Committee and is actively seeking interested participants to serve on the committee as vacancies become available. If you are interested in serving, or would like to nominate someone for appointment consideration, please contact the Concho River Watermaster's office at (325) 481-8069 or (866) 314-4894, via fax at (325) 658-5431, or e-mail at momohler@tceq.state.tx.us.

Concho River Watermaster Advisory Committee Meeting
622 S. Oakes, Ste. K
San Angelo, TX 76903

July 22, 2010
1:30 pm

Agenda

1:30 pm	Sign-In	A. J. Jones
1:35 pm	Roll Call	A. J. Jones
1:40 pm	Introduction of New TCEQ Contacts	TCEQ Staff
1:50 pm	Review of Minutes	A. J. Jones
	- Approval of Minutes	
1:55 pm	FY11 Budget Discussion	TCEQ Staff
2:55 pm	Old Business	A. J. Jones
3:00 pm	New Business	A.J. Jones
	- Committee Member Positions (Set Date to Re-Elect Officers)	
	- Relocation of the South Concho USGS Gage	
	- Discussion of Losses on the South Concho River	

Future Meetings

Adjourn